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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 26 October 2004 from the Permanent Mission of Argentina to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Argentina to the United Nations presents its compliments to the Office of the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004) and, in reference to the Office's note SCA/10/04(02), dated 21 June 2004, has the honour to transmit herewith the report of the Argentine Republic on the implementation of that resolution. The report is public in character.

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Annex to the note verbale dated 26 October 2004 from the Permanent Mission of Argentina to the United Nations addressed to the Chairman of the Committee

Report of the Argentine Republic submitted pursuant to Security Council resolution 1540 (2004)

The Argentine Republic welcomes Security Council resolution 1540 (2004) on proliferation of weapons of mass destruction and offers its support to the Council's decision to counter that threat to international peace and security.

The Argentine Republic follows a policy of commitment in the area of non-proliferation and for more than a decade has been developing a set of regulations and internal procedures aimed at guaranteeing the safety of materials that can be used for the production of weapons of mass destruction.

Argentina has therefore ratified the Treaty on the Non-Proliferation of Nuclear Weapons. It is also a State Party to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction and to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction. Since their adoption, Argentina has militated, in various multilateral forums and in its bilateral relations with third States, for the universal adoption, strengthening and full implementation of those instruments.

It also collaborates fully in the work of the International Atomic Energy Agency (IAEA) and the Organization for the Prohibition of Chemical Weapons. In addition, Argentina has supported the prompt approval of a biological weapons verification protocol to ensure full implementation and monitoring of the obligations imposed by the Convention on States parties. In the area of missiles, it is a subscriber State to the Hague Code of Conduct against Ballistic Missile Proliferation.

In the regional sphere, Argentina is a State party to the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco).

At the subregional level, on 5 September 1991 Argentina signed the Mendoza Declaration between Argentina, Brazil and Chile, by which the region was declared a zone free of chemical and biological weapons. The Declaration was subsequently acceded to by Bolivia, Ecuador, Paraguay and Uruguay. On 10 July 1998 it signed the Joint Declaration of Argentina, Brazil, Chile, Colombia, Mexico and Peru on Strengthening of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction. On 29 July 1998, in the city of Ushuaia, it signed the Political Declaration of MERCOSUR, Bolivia and Chile as a Zone of Peace, which provides that the signatory States will support, in the relevant forums, the full force and improvement of international instruments and mechanisms for the non-proliferation of weapons of mass destruction.

In the bilateral sphere, Argentina has developed an unprecedented degree of trust in the field of nuclear energy with the Federative Republic of Brazil through the signing of the Agreement on the Exclusively Peaceful Use of Nuclear Energy,

which established the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials, the body charged with verifying the two countries' installations.

Argentine policy in the field of non-proliferation is completed with our country's membership in the five sensitive export control regimes: the Missile Technology Control Regime, the Nuclear Suppliers Group (NSG), the Australia Group, the Wassenaar Arrangement and the Zangger Committee.

In addition to holding the chairmanship of the Wassenaar Arrangement from September 2003 to October 2004, Argentina occupied the chair of the Missile Technology Control Regime during the same period. During that time it actively promoted the activities of the Regime among non-member countries, including the promotion of compliance with Security Council resolution 1540 (2004).

In the area of counter-terrorism, Argentina has implemented a series of measures aimed at combating that scourge to international peace and security that are reported annually to the Counter-Terrorism Committee of the Security Council, in pursuance of the provisions of Security Council resolution 1373 (2001). In that connection, Argentina actively participates in the 3+1 Group (Argentina, Brazil, Paraguay and the United States), which keeps under surveillance the zone known as the "tri-border area", thus cooperating at the subregional level in the purposes and aims of resolution 1540 (2004).

Finally, mention should also be made of Argentina's membership in the Inter-American Committee against Terrorism (CICTE) and the strict observance by the Argentine Government of the measures adopted by specialized international organizations, in particular the International Civil Aviation Organization (ICAO) and the International Maritime Organization (IMO) in everything relating to security and safety and to matters connected with the said resolution.

For the purposes of the present report, the State agencies involved in the areas dealt with by resolution 1540 (2004) were consulted and a mechanism of coordination was set up with them with a view to establishing the additional measures needed to implement the regulations in force.

In the interest of better follow-up and continuity in the implementation of the resolution, it was decided that an inter-ministerial commission should be set up, presided over by the Ministry of Foreign Affairs, International Trade and Worship and made up of the Ministry of Defence, the Ministry of Justice and Human Rights, the Ministry of the Interior, the Ministry of Economic Affairs, the Department of the Environment and Sustainable Development, the Department of Intelligence, the Central Bank of the Argentine Republic, the National Space Activities Commission, the Nuclear Regulatory Authority and the specialized agencies competent in the field.

Operative paragraph 1

(The Security Council) ... 1. *Decides* that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

The Argentine Republic provides no assistance or support of any kind to non-State actors that attempt to carry on the activities listed in the paragraph in question.

The legislation and internal procedures that ensure this are indicated in the paragraphs that follow.

Operative paragraph 2

(The Security Council) ... 2. *Decides also* that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them.

Criminal acts are dealt with in the Penal Code in Title VII (Offences against public safety, chapter 1, article 189 bis; Offences against public health, chapter 2, articles 200 and 202) and Title VIII (Offences against public order, articles 210, 210 bis).

– **Article 189 bis** of the Argentine Penal Code. (Offences against public safety)

Act No. 25,886 was enacted on 14 April 2004, amending article 189 bis of the Penal Code, thereby supplementing the definition of offences covered by Security Council resolution 1540 (2004).

Anyone who, for the purpose of helping to commit offences against public security or causing damage to machinery or production, acquires, manufactures, supplies, steals or possesses bombs, nuclear materials or devices, radioactive matter, or nuclear substances or waste, radioactive isotopes, explosives, inflammables, asphyxiating or toxic substances, biologically hazardous materials, or substances or materials used in their production will be sentenced to between five and 15 years' imprisonment.

The same penalty applies to those who provide instructions for the preparation of the substances or materials referred to in the previous paragraph, when they know or should have known that they are aiding or abetting the commission of offences against public security.

A three to six-year prison sentence is imposed for possessing these materials without proper legal authorization or for unjustified domestic or industrial use.

– **Article 200** of the Argentine Penal Code. (Offences against public safety)

This article imposes a penalty of between three and 10 years' imprisonment for endangering public health by poisoning or adulterating drinking water, food or medicines intended for use by the public or for consumption by a group of persons.

– **Article 202** of the Argentine Penal Code. (Offences against public safety)

Anyone who spreads a disease that is harmful or contagious to humans will be sentenced to between three and 15 years' imprisonment.

– **Article 80.2** of the Argentine Penal Code. (Use)

Under this article, a life sentence is imposed on anyone who kills another person with aggravated brutality or treachery or poison or by any other insidious means.

– **Article 80.5 of the Argentine Penal Code. (Attempted use)**

This article establishes that the rules on attempted use (articles 42 to 44 of the Penal Code) will apply to anyone who causes a public hazard even if no death has resulted from it.

– **Act No. 13,985 (Sabotage, physical protection)**

Article 7 of this Act imposes a prison sentence from between one and twenty-five years on anyone who, by whatever means, disturbs, destroys, damages or renders unusable, in whole or part, documents, material objects, installations, services or industry of any type, in order to disrupt, slow down or obstruct the military, economic, financial, social, scientific or industrial development of the Nation.

– **Act No. 20,429 (Weapons and explosives)**

This Act supplements penal legislation on chemical substances since it establishes that the acquisition, use, possession, bearing, sending by any means, transport, introduction into the country and importation of firearms, weapons that are launched by hand or by any type of device, aggressive chemicals of every kind and other materials are subject to the penalties provided for in the above-mentioned Act.

In addition, article 16 of the Act specifies the weapons whose use is prohibited for any activity whatever and sets forth the administrative procedures or penalties, which include reprimand, confiscation, disqualification, loss of registration, withdrawal of authorization and payment of a fine. Decree No. 395/75 regulating the above-mentioned Act identifies aggressive chemicals and poisoned projectiles as prohibited weapons.

– **Act No. 24,051 (Hazardous residues)**

With respect to the environment, Act No. 24,051 establishes that anyone who poisons, adulterates or contaminates the soil, water, atmosphere or general environment in a manner that endangers health will incur a penalty of from three to ten years' imprisonment. If the act leads to the death of a person, the sentence will be between 10 and 25 years' imprisonment.

– **Act No. 24,449 (Transport of hazardous materials)**

Annex S of Decree No. 779/95 regulating Act No. 24,449 governs the transportation of hazardous materials.

This decree establishes the penalties applicable to persons who infringe existing rules, including specific enactments such as those relating to the National Directorate of Military Manufacturing, the Department of Fuel, the National Atomic Energy Commission, the Department of Natural Resources and the Environment, among others.

The following enactments should be highlighted:

(a) Decision No. 233/1986 on general regulations for the transport of hazardous material, as amended by decision No. 195/1997, decision No. 208/1999 and decision No. 20/2000.

(b) Decision No. 720/1995 on the list of hazardous materials.

(c) Decree No. 779/1995 on the regulation of road traffic.

(d) Decision No. 25/2000 on the transport of infectious substances, supplemented by decision No. 145/2003 on the transport of infectious substances and specimens.

(e) Decision No. 636/1999, which establishes the rules and procedures regulating the health controls for passengers and luggage.

(f) Decision No. 11/2001 on the transport of radioactive material, which incorporates the International Atomic Energy Agency regulation on the safe transport of hazardous materials in the internal legal order.

Legislation on the transport of hazardous materials is supplemented by the incorporation, through article 1 of Decision No. 208/99 adopted by the Department of Transportation, of the regime on offences and penalties under the MERCOSUR agreement on the facilitation of transport of dangerous goods, approved by MERCOSUR Council Decision No. 8/97.

Department of Transportation Decision No. 110/97 incorporates the compulsory basic training programme for drivers of vehicles used in the transport of dangerous goods by road, and article 1 of Decision No. 195/97 of the Department of Public Works incorporates the technical standards for ground transport.

Lastly, Ministry of Health Decision No. 145/03 incorporates in Argentine legislation the MERCOSUR technical regulations for the transport of infectious substances and diagnostic specimens.

– **Act No. 24,051** (Transport of hazardous waste) and **Act No. 25,612** (Integrated management of industrial waste).

Since the traffic in sensitive materials has been extended to include other types of substances and materials, such as hazardous waste and substances affecting the environment, it has also been deemed necessary to include existing legislation on the subject.

Act No. 24,051 provides for responsibility, registration of operators, the legal regime and the executing authority for the management of hazardous waste. Act No. 25,612 establishes the minimum environmental protection budgets for the integrated management of all waste of industrial origin and from the services sector which is generated throughout the national territory by industrial processes or service activities. Act No. 23,992 approves the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal.

– **Act No. 22,415** (Smuggling)

Argentine penal legislation includes the concept of smuggling, established under Act No. 22,415 of 2 March 1981. Article 863 imposes a penalty of six to eight years' imprisonment on anyone who, through any act or omission, by plotting or deceit, impedes or obstructs the proper discharge of the functions which the customs services are required by law to perform in monitoring imports and exports.

There is also a provision for related offences such as attempted movement of contraband (cf. article 871 and similar articles, Customs Code), concealment of smuggling (article 874 and similar articles, Customs Code), punishable acts that facilitate smuggling and the fraudulent use of documents (cf. article 868 and similar

articles, Customs Code), aggravated smuggling. This becomes relevant when dealing with "... nuclear material, explosives, aggressive chemicals or related materials, weapons, ammunition or items that could be considered war materiel, or items that by their nature, quantity or features might affect the public security, except if the act is defined as an offence to which a heavier penalty is applicable." (cf. article 867, Customs Code). Such offences are punishable by four to 12 years' imprisonment.

This body of rules also establishes procedures and a system of customs penalties for infringements that do not qualify as criminal offences.

As regards the establishment of the financing of terrorism activities as a criminal offence, the Argentine Republic has adopted rules on the prevention of money-laundering and other illicit activities in the context of the Central Bank. A complete description of the domestic procedures governing the financing of terrorism-related activities has been previously transmitted to the Security Council in the national reports submitted pursuant to Security Council resolution 1373 (2001).

Operative paragraph 3

(The Security Council) ... 3. *Decides also* that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall ...

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

(b) Develop and maintain appropriate effective physical protection measures;

Nuclear activity

In Argentina, the use of radioactive material — including materials suitable for use in a nuclear weapon — is subject to the provisions of Act No. 24,804 (National Nuclear Activity Act), which was promulgated on 25 April 1997, and to the National Regime for the Control of Sensitive Exports (Decree No. 603/92), both of which are described in greater detail below. Article 1 of the Act provides that "the implementation of nuclear policy shall strictly comply with the obligations assumed by the Argentine Republic under the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco), the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the Agreement between the Argentine Republic, the Federative Republic of Brazil, the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials (ABACC), and the International Atomic Energy Agency (IAEA) for the Application of Safeguards (Quadripartite Agreement); as well as Argentina's commitments as a member of the Nuclear Suppliers Group (NSG)".

The same article stipulates that the State authority responsible for regulating and monitoring nuclear activity in all areas relating to nuclear non-proliferation, radiological and nuclear safety, physical protection, control and transport of nuclear and radioactive material is the Nuclear Regulatory Authority (ARN).

The objective of ARN is to establish, develop and implement a regulatory regime for all nuclear activities carried out in the Argentine Republic, with a view to ensuring that nuclear activities are not carried out for unlawful purposes and to preventing the commission of intentional acts that might have serious radiological consequences or lead to the unauthorized removal of nuclear, or other materials or equipment subject to regulation and control.

ARN sets the standards for the implementation of such activities. Its duties in this regard include: granting, suspending and revoking licences, permits or authorizations relating to nuclear activity; carrying out regulatory inspections and evaluations at facilities under its regulatory supervision; and imposing penalties in the event of failure to implement its regulations.

All individuals or entities must be in possession of a licence — issued on the basis of a facility-design questionnaire — authorizing uranium mining and concentration activities and attesting to the safety of research reactors, major accelerators, major radioactive facilities, including facilities for the management of nuclear waste or discharge, and nuclear applications used for medical and industrial purposes.

Under Argentina's regulatory regime, all responsibility for the radiological and nuclear safety of a nuclear facility lies with the organization (owner or operator) responsible for designing, building, commissioning and operating the facility concerned, or for withdrawing it from service.

The regulatory regime governs non-proliferation safeguards and guarantees.[1] In this regard, ARN established the guidelines for the Argentine Regime for Accounting and Control of Nuclear-related Materials, Equipment and Facilities. The central pillar of the regime is the independent verification by ARN of materials, equipment and technology subject to safeguards, combined with containment and monitoring procedures. The verification process requires that operators make annual declarations of the stocks and inventories of materials within their facilities.

On the basis of on these declarations, ARN identifies materials-inventory areas within each facility. The purpose of establishing these areas is to ensure that inventories and nuclear-material flows (entry and exit to and from each facility) are accurately recorded. The physical inventory-taking process complies with the latest relevant international standards. Inventories are verified through periodic facility inspections carried out by ARN.

The safeguards regime applicable in the international sphere is the content of the 1991 Agreement between the Argentine Republic and the Federative Republic of Brazil on the Exclusively Peaceful Use of Nuclear Energy (Guadalajara Declaration). This Agreement established ABACC, which implements the Joint Regime for Accounting and Control of Nuclear Materials. Also in force is the Quadripartite Agreement, under which IAEA undertakes to apply safeguards, in both countries, to nuclear materials in all activities, based on the Joint Regime.

As regards physical protection, Argentina is a State party to the Convention on the Physical Protection of Nuclear Material, which is mainly concerned with the

[1] The set of requirements and procedures applicable both to nuclear material and to nuclear-related material, equipment and information, with the aim of ensuring that such material is not diverted for unauthorized purposes.

international transport of such material, and which was approved by Act No. 23,620 of 2 November 1988. The Convention is given effect in domestic law through Regulation AR 10.13.1 (Basic Regulation on the Physical Protection of Nuclear Materials and Facilities), which sets out the general criteria applicable to protected materials and facilities and for the protection of transported material against robbery, theft, sabotage or the unauthorized use of nuclear material.

Furthermore, Regulation AR 10.14 sets out guarantees for the non-diversion of nuclear material and nuclear-related materials, facilities and equipment. Act No. 25,279 of 6 June 2000 gives force in domestic law to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, adopted in Vienna in 1997.

Lastly, Regulation AR 10.16.1 stipulates the minimum safety requirements for the transport of radioactive materials. The purpose of these requirements is to protect persons, property and the environment from the harmful effects of ionizing radiation during transport. It applies to all forms of transport by land, water or air of radioactive materials that do not form an integral part of the vehicle or craft in question, including transport used to carry radioactive materials on an ad hoc basis. Argentina also adheres to the criteria set forth in the model Regulations for the Safe Transport of Radioactive Material (1996, revised).

Chemical activity

Act No. 24,534 of 11 September 1995 gives effect in domestic law to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical Weapons Convention, or CWC) . The Convention was ratified on 2 October of the same year. In ratifying the Convention, Argentina stated that it did not possess and had never possessed chemical weapons or related facilities and had established no programmes for their development.

In accordance with article VII of the Convention, Argentina created, by Decree No. 920/95, the Inter-ministerial Commission for the Prohibition of Chemical Weapons (ANCAQ) as the national authority responsible for implementing the Convention in Argentina. It is composed of an Executive Secretariat, and a Board of Directors whose members are appointed from within the Ministry of Foreign Affairs, International Trade and Worship, the Ministry of Defence, the Ministry of Economic Affairs, and the Scientific and Technical Research Institute of the Armed Forces.

The role of ANCAQ is to ensure that domestic procedures comply with the provisions of the Convention and serve as a liaison with the Organization for the Prohibition of Chemical Weapons (OPCW) and with the other States parties to the Convention. The Inter-ministerial Commission monitors compliance with the requirements of the Convention in all matters relating to declarations, inspections, verification, the organization of training courses, and the adaptation of domestic administrative and legal regulations to its provisions.

Decision SIYMNC 904/98 of 30 December 1998 establishes, within the Department of Industry, Trade and Mining in the Ministry of Economic Affairs, a Registry designed to serve as the basis for establishing a database of companies engaged in chemical activities and for maintaining direct contact with them.

The decision requires that all individuals or entities that are legally responsible for a facility, or that carry out activities involving the chemical substances listed in schedules 1, 2 and 3 of the Convention, as well as facilities that produce the organic substances listed in the Convention, submit the required information, as set out in the Declarations Handbook. The information must be submitted to the Registry on the forms contained in the annexes to the decision. The information requested in the forms is the same information stipulated in the CWC.

The companies concerned must notify ANCAQ of any transfers of controlled chemical substances listed in the Schedules. The company declarations, the Registry data, and the information provided by the Customs Office (see para. 3 (c)) form the basis of the declaration made to OPCW.

Control over the production, processing and consumption of substances listed in the Schedules concerned is thus exercised through the companies' declarations.

With respect to inspections of facilities that handle chemical substances, the Argentine Republic has received three OPCW inspections since the year 2000 and also carries out its own inspections on a periodic basis.

In the same way, the Department of the Environment and Sustainable Development (SAYDS) is responsible for activities relating to the control of chemical materials, acting through the Chemical Substances and Products Division, which coordinates the actions of the Department's National Environmental Management Directorate with respect to chemical substances and products falling within its competence.

SAYDS accordingly ensures compliance with the commitments made under the Stockholm Convention on Persistent Organic Pollutants, signed by Argentina in May 2001, and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, approved by Argentina in June 2003 by Act No. 25,278.

Biological activity

The Argentine Republic ratified the Biological and Toxin Weapons Convention in 1979. However, the Convention does not stipulate specific measures for verifying compliance with the obligation not to develop, produce, stockpile or otherwise acquire or retain biological agents or toxins "for hostile purposes". Because of this serious flaw, Argentina would like to reiterate its call for the speedy negotiation of a Verification Protocol to the Convention, or of some other legally binding instrument in this area.

Argentina prepares an annual report, in accordance with the outcome of the 1991 Third Review Conference of the States Parties, which includes updated statistics and information, as well as declarations of present and past activities relating to the Convention. The information relates to laboratories and research centres, outbreaks of infectious and poisonous diseases, results of research and education efforts, legislation, regulations and other relevant legal measures, and vaccine-production facilities in the Argentine Republic.

The present report is based on the lists of human, animal and plant pathogens and toxins contemplated by the international instruments to which Argentina is a party (e.g. Australia Group).

Within the Department of Agriculture, Livestock, Fishing and Food, the Division for the Coordination of Pharmacological, Veterinary and Food Products for Animals oversees the authorization of facilities that prepare and store biological products, with a view to preventing some of the diseases included in the lists. These facilities are subject to inspection by the National Animal Health Directorate. The viruses in question are handled under biosafety conditions that are regulated by Decision No. 219/95. Registries of qualified laboratories are maintained by the National Service for Health and Agro-food Quality (SENASA).

The following are the most important domestic laws and procedures regulating laboratory activities in Argentina:

Decision No. 422/2003 provides for SENASA to adapt domestic procedures to international laws governing systems for the notification of animal diseases, epidemiological monitoring and continuous epidemiological follow-up, risk analysis and health emergencies, in accordance with a regulatory provision governing all aspects of efforts to protect against and combat diseases.

Decision No. 488/2002 establishes a system for preventive action whenever animal or plant health, or agro-food quality, has been compromised, with a resulting risk to human health. The decision authorizes the closure of facilities and the confiscation of materials, and its scope includes trade at the federal level.

Decision No. 505/1998 and Decision No. 531/1999 include guidelines on inspections and procedures and on procedures for laboratories in the national department of health and agro-food quality.

Decision No. 295/1999 lists the goods of animal or vegetable origin that may enter the country through the transit of persons and/or accompanied luggage. Decision No. 299/2000 sets out procedures for the control of persons, accompanied luggage and vehicles at points of entry into the Republic, with a view to keeping out disease producers. Decision No. 895/2002 sets out the national plan to prevent the introduction of waste-borne plagues and diseases, and Decision No. 1442/2000 establishes a technical committee on border and federal trade controls, responsible for strengthening, streamlining and stepping up monitoring and oversight functions within border and federal trade controls.

Act No. 25,127 establishes the legal regime for ecological, biological or organic production, and is regulated by Decree No. 87/2001. Decision No. 98/2003 regulates the operations of laboratories performing diagnostic tests on major nursery plants and/or their parts, and Decision No. 55/03 regulates the accreditation of laboratories engaged in testing and quality control. Act No. 20,247 defines the regime for phytogenetic creations, and Act No. 24,376 approves the International Plant Protection Convention. Decision No. 617/2000 sets out regulations for biological and chemical trials, together with the requirements, conditions and procedures for their implementation, and requires the submission of reports on tests conducted on phytosanitary waste products.

In the area of biotechnology, Decision No. 289/1997 (as revised by Decision No. 57/2003) regulates licences for experimenting on, and releasing genetically modified organisms.

Act No. 19,587 sets out health and safety conditions for the workplace.

With regard to vaccines for foot-and-mouth disease, Decision No. 142/2002 lists the laboratories authorized as manufacturers, Decision No. 213/1996 creates the foot-and-mouth disease vaccine banks set up by all provincial animal-health commissions, and resolution 251/2003 sets out measures for updating regulations with a view to ensuring that the vaccines remain effective.

Lastly, Decision No. 2676/1999 establishes standards for the authorization of facilities engaged in the manufacture, fractionation, distribution, sale, import and export of products for in vitro diagnosis and research.

Missile activity

The Argentine Republic does not possess ballistic missile systems or any other type of missile designed specifically to carry weapons of mass destruction. Nor does it have programmes or policies for the development, production, testing or deployment of such systems. It has no plans to introduce such programmes or policies in the future.

Activities relating to space technology are carried out through the National Commission on Space Activities (CONAE), whose mandate is solely concerned with the peaceful uses of outer space and is carried out strictly within the framework of the provisions of Decree No. 995/91, ratified by article 32 of Act No. 11,672 (Decree No. 689/99) and its modifications.

Under Decree No. 995/1991 all global policies on space matters are centralized, organized, administered and executed within CONAE, which is responsible for all related scientific, technical, industrial, commercial, administrative and financial matters, whether in the public or private spheres. CONAE is also the sole State agency with the competence to receive, design, execute, oversee, manage and administer space-related projects and undertakings.

Decision No. 303/97 provides that all initiatives by public or private entities aimed at setting up satellite systems under national jurisdiction must be initiated by CONAE, which shall study such initiatives before sending them on to any other national agencies whose intervention is required.

Decision No. 463/97 establishes a registry of companies engaged in space-related activities, which lists all public and private institutions that have plans or programmes to carry out such activities.

Operative paragraph 3

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

Operative paragraph 6

(The Security Council) ... 6. *Recognizes* the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

Argentina is a State member of the following export control regimes: the Nuclear Suppliers Group (NSG) for nuclear technology, the Missile Technology Control Regime (MTCR) and the Australia Group for chemical and biological materials and technology. It is also a member State of the Zangger Committee and a participating State of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, which it is chairing until the end of December 2004.

The above export control regimes have set criteria and drawn up lists for the control of transfers of nuclear, chemical, biological and missile-related materials. Such criteria and lists have been incorporated in national legislation through Decree No. 603/1992 and supplementary regulations. The goal is to ensure that all exports or imports of that nature are strictly controlled to provide security that they will be used exclusively for peaceful means.

In order to achieve that end, the above-mentioned decree created the National Commission for the Control of Sensitive Exports and Military Materiel (CONCESYMB), composed of the Ministry of Foreign Affairs, International Trade and Worship, the Ministry of Defence, the Ministry of Economic Affairs and Production, the General Customs Directorate and technical agencies involved in their areas of competence, depending on the product or technology that is to be controlled. Those agencies are:

(a) The National Space Activities Commission (CONAE), which is involved in matters related to exports of missile and space technology (MTCR lists);

(b) The Nuclear Regulatory Authority (ARN), which is concerned with all matters related to the implementation of IAEA safeguards and nuclear exports (NSG lists);

(c) The Scientific and Technical Research Institute of the Armed Forces (CITEFA), which deals with exports of chemical and bacteriological substances (Australia Group lists and the Chemical Weapons Convention) and with exports of military materiel and dual-use goods (Wassenaar Arrangement lists).

Although not officially a member of CONCESYMB, the Intelligence Secretariat alerts all the relevant agencies, each in its specific area of competence, about any factors, events or methods that could lead to the evasion of export controls or conceal re-shipments, trans-shipment, re-export or transit of materials presenting a proliferation risk. It also alerts them to possible factors facilitating illicit trade in sensitive materials and illegal activity on the part of brokers.

Decree No. 603/1992 empowers the Commission to issue an advance export licence on sensitive materials and dual-use goods that could be used to produce weapons of mass destruction. The Commission is also empowered by Decree No. 1291/1993 to grant an import certificate, which is to be requested by the exporter before goods intended for shipment to Argentina leave the country where they are currently.

Decree No. 657/1995 empowers the Commission to require an end-user certificate before issuing either the export licence or the import certificate, in order to ensure that the goods to be transferred cannot be used for proliferation. The legislation expressly stipulates that requirement for sales of military materiel, but the Commission also requires it for sensitive materials and dual-use goods.

Decree No. 603/1992 and its accompanying regulations establish lists of substances and materials for which an advance licence is required. They are set forth in the following annexes:

(a) Annex A (missile-related materiel);

(b) Annex B (chemical and biological substances that could be used in the production of chemical and biological weapons);

(c) Annex C (nuclear and non-nuclear products that could potentially be used for non-peaceful nuclear applications);

(d) Annex D (military materiel and dual-use goods).

The above lists are updated periodically to meet international criteria. Decree No. 1291/1993 established a more flexible administrative mechanism for the periodic updating of the lists of goods subject to control by the Commission, which may be effected through a joint decision of the ministries that make up the Commission.[2]

In addition, of particular significance for the control of international transfers of sensitive or dual-use items is the "catch-all" clause, so named because it allows certain items to be controlled even though they are not listed in the annexes to the Decree. Such a clause, which forms part of our control regime pursuant to article 15 of Decree No. 603/1992, essentially provides that exporters of nuclear, chemical, bacteriological or missile-related materials, equipment, technologies, technical assistance and/or services not specified in the relevant statutes or annexes thereto shall, notwithstanding, be required to obtain an advance licence when the Commission considers it appropriate.

Moreover, some transactions involving nuclear matters are prohibited by the above-mentioned Decree No. 603/1992 and by Decree No. 102/2002. They include (a) the export of reactors and enriched uranium or technology related thereto and (b) the provision of technical assistance in nuclear matters and the export of certain non-nuclear products that could potentially be used for non-peaceful nuclear applications.

Authorization to engage in nuclear technology transactions is also subject to the following conditions on the part of the country of destination. The latter must:

(a) Have a bilateral cooperation agreement with Argentina on nuclear energy for peaceful uses;

[2] In that regard, annex A of Decree No. 603/1992 was amended by Decisions Nos. 26/1995, 23/1995 and 59/1995. Annex B was amended by joint Decisions Nos. 1373/93, 3728/93 and 1634/93 and updated by Decisions Nos. 125/1998, 2097/1998 and 41/1998 of 4 March 1998, adding the substances in lists 1, 2 and 3 to those subject to export control. Annex C was amended by Decree No. 1291/1993 and joint Decisions Nos. 26/95, 23/95 and 59/95. Annexes D and E were updated by Decree No. 437/2000. With respect to customs controls, the most recent update was done pursuant to resolution No. 996/2001.

(b) Be a party to IAEA safeguards agreements;

(c) Make an express commitment not to use the material exported by Argentina for purposes related to nuclear explosives;

(d) Undertake to adopt appropriate security measures for the material exported by Argentina;

(e) Undertake to seek the consent of the Argentine Government for subsequent transfer of the material.

It should be noted that the current transfer control regime is undergoing a thorough overhaul with the aim of strengthening its mechanisms and adapting them to the new challenges. This process is being conducted within the framework of the Commission with representatives from each of the ministries and specialized agencies that make it up. The aim is to have a single, all-encompassing and flexible body of law providing secure procedures to allow for stricter control without obstructing trade relations.

Paragraph 3

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

The national customs administration is the authority in charge of monitoring compliance with Decree No. 603/1992. The powers and duties of the General Customs Directorate are governed by Act No. 22,415 ("Customs Code"). All the goods, equipment and technology covered in the annexes to Decree No. 603/1992 are included in the electronic tariff schedule of the Harmonized Commodity Description and Coding System developed under the auspices of the Customs Cooperation Council in Brussels in 1983. The customs administration also has a computerized recording system, known as the María Computer System, through which the goods classified in the nomenclature can be monitored.

Act No. 22,415 provides the General Customs Directorate with the necessary powers: to conduct routine inspections, including in cases of trans-shipment transactions (section V, title I); to take and remove representative samples of the cargoes transported; and to take any other actions necessary in order to verify the credibility of the declarations involved in forwarding to destination or clearing through customs.

With regard to the criminal and civil penalties for non-compliance with the above requirements, see the comments under paragraph 2 on the offence of smuggling.

With regard to training, over the past four years the General Customs Directorate has been developing training and refresher courses for its staff and those of other government agencies on the topic of illicit trafficking in the materials covered by the resolution.

Border controls are governed by Act No. 24,059 on domestic security and Act No. 25,520 on national intelligence and the implementing regulations contained in

decrees Nos. 1273/1992 and 950/2002, respectively. The Domestic Security Department within the Ministry of the Interior handles matters related to sounding the alert and instituting precautionary measures specifically in regard to chemical, biological and nuclear materials.

Controls are exercised at border points and within the national territory in accordance with instructions issued to the security forces, namely, the Argentine Coastguard, the National Gendarmerie and the Argentine Federal Police. There are 157 border crossing points and ports of entry into Argentina that are under the operational supervision of the Domestic Security Department. In addition, the international airports are under the jurisdiction of the National Aeronautical Police, which are part of the Ministry of Defence.

The Intelligence Secretariat works closely with the security forces and alerts them to all factors, events and procedures that might enhance risk and weaken border control of the entry and exit of sensitive materials and agents presenting a potential proliferation risk.

At the subregional level, the Domestic Security Department signed Agreements Nos. 7/2000 and 8/2000 with the MERCOSUR member States and Bolivia and Chile supplementing the general plan on mutual cooperation and coordination for regional security with regard to illicit trafficking in nuclear and/or radioactive material. Through those agreements, the States agreed to exchange information, develop procedures for detection and response and train the security forces of the countries of the region.

With regard to the activities carried out by security forces, the Argentine Coastguard has operational units posted all along the seacoast and on the rivers and lakes and controls 50 points of entry into Argentine territory. In a specific security situation it acts jointly with the other federal security forces and provincial police and in collaboration with the customs and immigration authorities.

In the ports, the Coastguard checks all vessels that enter, requiring them to present the ship's clearance papers on arrival or departure, with the particulars of the ship, including registration number, flag, previous port, home port, names of crew members and passengers and their documentation; and in collaboration with the General Customs Directorate it requires presentation of the documentation on the cargo.

Under ordinance No. 01/90, "Notification to be presented in advance of the arrival or departure of ships transporting hazardous goods", Coastguard stations in whose jurisdiction there are ports that handle hazardous goods take cognizance of such shipments in advance and authorize them upon presentation of a declaration with a list, drawn up in a specific format, of all the hazardous goods in the shipment, whether intended for entry, exit or transit. Its checks include verification of whether the goods are packed, marked and labelled in accordance with the provisions of the International Maritime Dangerous Goods Code.

The Argentine Coastguard is the agency responsible for detaining, investigating and seizing shipments suspected of containing weapons of mass destruction, by virtue of the powers granted to it by Act No. 28,398.

The Argentine National Gendarmerie is active at 105 authorized border crossings into the national territory to prevent illicit trade in nuclear, chemical and

biological materials and/or weapons and their delivery systems and to achieve other objectives deemed to be in the interest of the nation, including the objective of protecting it from physical harm.

Its activities consist of doing vehicle checks on the highways, patrolling and investigating in the areas under its responsibility. It also has exclusive responsibility for security in the case of transport of radioactive and nuclear materials and entry and exit controls in the case of transport of loads (including hazardous goods) or passengers in transit through the national territory.

The Gendarmerie has warning systems that operate through its network of satellite, VHF and UHF communications, and it has a personal records system. Remote stations at international border passes are linked to emergency units and guard stations of the Nuclear Regulatory Authority, the National Atomic Energy Commission and the various other agencies, both national and provincial, with responsibility in the area of chemical and biological substances.

Lastly, the Argentine Federal Police has personnel specially trained for the purpose within the Interpol Department, the Environmental Emergency and Radiological Security Section of the Federal Superintendency of Firefighters and the Special Hazards Brigade of the security forces.

The Interpol Department is involved in matters related to national and international cooperation agreements and conventions in collaboration with the National Authority for the Prohibition of Chemical Weapons (ANCAQ). The Environmental Emergency and Radiological Security Section intervenes in response to emergencies involving chemical, biological and radiological materials. Lastly, the Special Hazards Brigade of the Federal Police has the capacity to intervene immediately in the federal district and immediately on request in the rest of the country.

Moreover, in November 2001 the Domestic Security Department put into effect the Federal Emergency System (SIFEM), which is operated by the National Directorate for Security Policies and Civil Defence (DNPSPC). Implementation of this system is coordinated with the National Planning and Control Directorate and the National Coordination and Analysis Directorate for Crime Prevention.

The system for weapons of mass destruction was modelled on the framework for response to incidents involving hazardous materials, with the idea of taking advantage of the structures already in existence in the various political jurisdictions throughout the country.

Warnings would be sounded through the DNPSPC communications network, which would bring to the attention of the various jurisdictions the need to take local measures called for by the security and civil defence framework. If an incident should occur, neighbouring jurisdictions and the rest of the country will be alerted in support of the affected jurisdiction and the appropriate measures will be taken. The National Emergency Centre was established to monitor and coordinate federal assistance.

The technical development of this system takes place within the functional organization of the SIFEM National Emergency Centre. The Centre is carrying out this task through a working group headed by the Domestic Security Department with the participation of representatives from the Ministry of Health, the Ministry of

Social Development, the Department of the Environment, the Joint Chiefs of Staff, the Argentine Army, the security forces, the Meteorological Service, the National Hydrographic Service and the Civil Defence services for the City of Buenos Aires and Province of Buenos Aires.

The task is two-stage. The first stage involves the preparation of working hypotheses. The work is broken down by area of specialization, and there is a Subcommittee on Hazardous Materials, which deals among other things with planning to respond to threats with weapons of mass destruction. The second stage involves monitoring and coordinating the response of federal agencies.

The aim of the Subcommittee on Hazardous Materials is to improve the national control and response system for incidents involving hazardous materials and to institute the recommendations on the training and organization of response teams, mass victim decontamination, monitoring of hydrocarbon spills, identification of the hazardous materials network, the hazardous materials transport parking project and the recommendations on standardizing control of hazardous materials transport.

A complete run-down on what is being done with respect to border controls was included in the report which Argentina submitted pursuant to Security Council resolution 1373 (2001).

Operative paragraph 7

(The Security Council) ... 7. *Recognizes* that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

Argentina takes this opportunity to reiterate its call of 22 April 2004 for the United Nations to provide assistance in the preparation of legal instruments for the enactment and effective implementation of resolution 1540 (2004). The United Nations, through its regional centres for disarmament and the cooperation of specialized agencies such as the International Atomic Energy Agency and the Organization for the Prohibition of Chemical Weapons, could contribute to the elaboration of model legislation to assist Member States in the adoption of relevant measures.

Operative paragraph 8

(The Security Council) ... 8. *Calls upon* all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

As a State party to the three most important treaties on the non-proliferation of weapons of mass destruction, Argentina promotes the universal adoption of those treaties in its bilateral relations.

Argentina takes this opportunity to reiterate its hope that the Comprehensive Nuclear-Test-Ban Treaty will soon enter into force and that negotiations will soon begin with a view to drawing up a legally binding instrument to ban the production of fissile material that can be used in nuclear weapons.

The introduction to this report mentions the Mendoza Declaration, by which the region was declared a zone free of chemical and biological weapons, the Joint Declaration on Strengthening of the Bacteriological (Biological) and Toxin Weapons Convention and the Political Declaration of MERCOSUR, Bolivia and Chile as a Zone of Peace, which provides that the signatory States will support, in the relevant forums, the full force and improvement of international instruments and mechanisms for the non-proliferation of weapons of mass destruction.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

The necessary consultations are being held to finalize a bill aimed at implementing the Chemical Weapons Convention. However, the obligations established in the resolution with regard to domestic controls are being met on a voluntary basis (see paragraphs 3 (a) and 3 (b)). At the same time, as already stated in connection with paragraph 2, Argentine criminal legislation contains definitions that establish as offences the activities prohibited by the Convention.

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

Argentina actively participates as a State member of the International Atomic Energy Agency and as a member of its Board of Governors, and as a State member of the Organization for the Prohibition of Chemical Weapons and a member of its Executive Council.

On the subject of international cooperation, see also the comments relating to operative paragraph 9.

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

In this regard, the Department of Industry of the Ministry of Economic Affairs and Production has been asked to identify those industries that are affected by resolution 1540 (2004) and to inform them of the obligations of the Argentine State under the legislation in force.

In addition, as directed by the Ministry of Foreign Affairs, International Trade and Worship, the information media have reported on the scope of resolution 1540 (2004) and the relevant measures adopted by the Argentine State.

The Ministry of Foreign Affairs, as well as other State bodies such as the Intelligence Secretariat and the General Customs Directorate, organize seminars and conferences to raise awareness of the issues surrounding proliferation and its security implications.

Operative paragraph 9

(The Security Council) ... 9. *Calls upon* all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

The Argentine Republic chaired the Missile Technology Control Regime (MTCR) from September 2003 to October 2004. At its plenary meeting in Buenos Aires, the Chairman was asked to continue outreach activities, as visits are an effective and transparent way of approaching non-partner countries. Accordingly, outreach activities were organized with various countries and regional organizations. A number of these activities highlighted the importance of resolution 1540 (2004) and called for compliance with its operative paragraph 4.

On 29 and 30 April, the Regional Seminar on Proliferation, Intermediation and Trans-shipment, organized by the Ministry of Foreign Affairs, International Trade and Worship, was held in Buenos Aires as part of Argentina's MTCR chairmanship. The seminar was attended by representatives of the Ministries of Foreign Affairs and Defence, the General Customs Directorate, the Intelligence Secretariat, and the security forces of both partner and non-partner countries. Its objective was to encourage voluntary adherence to the MTCR Guidelines and to raise awareness of the risks of missile proliferation through the exchange of information on the latest trends in the area of export controls.

Lastly, from 6 to 8 September 2004, Argentina hosted a "Technical meeting of national authorities on practical aspects of the transfers regime in connection with the current implementation of the Chemical Weapons Convention: Customs". The meeting was attended by representatives from over 45 countries and from international organizations and the chemical industry, who came together to discuss the issues surrounding customs control in the import and export of chemical substances.

Operative paragraph 10

(The Security Council) ... 10. Further to counter that threat, *calls upon* all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

Argentina supports the process currently taking place in the Legal Committee of the International Maritime Organization (IMO) with a view to amending the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome Convention). Such amendments could be adopted at a future diplomatic Conference.

As well as reducing the risks for the safety of maritime navigation arising from the unlawful traffic of nuclear, chemical, biological and missile material and technology, these amendments will remedy a significant loophole in international law with regard to the implementation of non-proliferation measures with extraterritorial scope.